

2001 Hazardous Waste Annual Update

LSA Document #01-289

Overview

This rule: (1) amends 329 IAC 3.1-1-7 to be consistent with federal hazardous waste regulations by incorporating by reference six (6) changes to the federal hazardous waste management regulations at 40 CFR 260 through 40 CFR 270 published in the Federal Register between July 10, 2000 and May 16, 2001; (2) amends 329 IAC 3.1-7-2 to be consistent with IC 13-22-4-3.1 by removing a requirement for generators to enter waste handling codes on the Uniform Hazardous Waste Manifest; (3) amends 329 IAC 3.1-9-2 and 329 IAC 3.1-10-2 to be consistent with P.L. 143-2000 by removing provisions that require permitted treatment, storage, and disposal facilities to send copies of hazardous waste manifests to IDEM; and (4) repeals outdated definitions in 329 IAC 3.1-4-9.1 and 329 IAC 3.1-4-17.1.

Citations Affected

329 IAC 3.1-1-7	329 IAC 3.1-7-2
329 IAC 3.1-4-9.1	329 IAC 3.1-9-2
329 IAC 3.1-4-17.1	329 IAC 3.1-10-2

Affected Persons

Generators and transporters of hazardous waste. Owners, operators and permittees of hazardous waste treatment, storage and disposal facilities.

Reason(s) for the Rule

To make Indiana's hazardous waste program consistent with the current federal hazardous waste program.

Economic Impact of the Rule

The net economic impact of this rule is estimated to be a potential annual savings of \$477,800 to \$859,200 to regulated entities in Indiana.

Benefits of the Rule

This rule will make Indiana's hazardous waste program as consistent as possible with the federal hazardous waste program, and will potentially result in significant savings to regulated entities in Indiana.

Description of the Rulemaking Project

Indiana is authorized under 40 CFR 271 to administer the hazardous waste management program in lieu of the U.S. Environmental Protection Agency (EPA). Authorized states are required to maintain their programs current with the latest federal amendments to the program. In many cases, the federal amendments involve streamlining, cost reduction and regulatory reform. The amendments proposed in this rule will make Indiana's program consistent with the federal hazardous waste program and with Indiana law.

Scheduled Hearings

First Public Hearing: October 16, 2001

Second Public Hearing: January 15, 2002

Consideration of Factors in IC 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

This rule is consistent with the federal hazardous waste program at 40 CFR 260 through 40 CFR 279.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/ hearing, and the draft rule. The Solid Waste Management Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule must be approved by the Attorney General and the Governor. When approved, the rule becomes effective 30 days after filing with the Secretary of State.

Federal Changes Adopted in this Rule

A summary of federal changes adopted in this rule is attached.

Federal changes adopted in this rule: This rulemaking incorporates the following amendments to the federal hazardous waste management regulations at 40 CFR 260 through 40 CFR 270, published in the *Federal Register* from July 10, 2000, through May 16, 2001:

Federal Register Publication Date

Subject

65 FR 42292 July 10, 2000

NESHAPS: Final Standards for Hazardous Air Pollutants For Hazardous Waste Combustors; Final Rule, Technical Correction

Summary: On September 30, 1999 the Environmental Protection Agency (EPA) published the Hazardous Waste Combustors NESHAP Final Rule. On November 19, 1999 EPA published the first technical correction of that rule to address a time sensitive situation. Today's rule corrects numerous typographical errors and clarifies several issues from the September 30, 1999 rule, one issue from a closely-related June 19, 1998 rule, and makes one adjustment to the November 19, 1999 technical correction. These corrections and clarifications will make the NESHAP final rule easier to understand and implement.

Relevant Sections Affected: 40 CFR 261.38(c)(2)(iv) (*new*); 40 CFR 270.42(j)(1) (*amended*)

65 FR 67068 November 8, 2000

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities, (K174/K175) Final Rule

Summary: The Environmental Protection Agency (EPA) is listing as hazardous two wastes generated by the chlorinated aliphatics industry. EPA is finalizing these regulations under the Resource Conservation and Recovery Act (RCRA), which directs EPA to determine whether certain wastes from the chlorinated aliphatics industry may present a substantial hazard to human health or the environment. The effect of listing these two wastes is to subject them to stringent management and treatment standards under RCRA and to subject them to emergency notification requirements for releases of hazardous substances to the environment. EPA is finalizing a contingent-management listing approach for one of these wastes. Under the contingent management listing determination, the waste will not be a listed hazardous waste, if it is sent to a specific type of management facility. EPA is also finalizing determinations not to list as hazardous four wastes generated by the chlorinated aliphatics industry.

Relevant Sections Affected: 40 CFR 261.32 (Table) (*amended*); 40 CFR 261, Appendix VII (*amended*); 40 CFR 268.33 (*amended*); 40 CFR 268.40 (Table) (*amended*); 40 CFR 268.48(a)(Table) (*amended*)

65 FR 81373 December 26, 2000

Deferral of Phase IV Standards for PCB's as a Constituent Subject to Treatment in Soil; Final Rule

Summary: EPA is temporarily deferring a portion of the rule applying Land Disposal Restrictions (LDR) under the Resource Conservation and Recovery Act (RCRA) to constituents subject to treatment (CST) in soils contaminated with certain characteristic hazardous wastes. EPA promulgated this rule on May 26, 1998. Specifically, EPA is temporarily deferring the requirement that polychlorinated biphenyls (PCBs) be considered a CST when they are present in soils that exhibit the toxicity characteristic for metals. EPA is taking this action because the regulation appears to be discouraging generators from cleaning up contaminated soils, which is contrary to what EPA intended when we promulgated alternative treatment standards for contaminated soils. In addition, EPA needs more time to restudy the issue of appropriate treatment standards for metal-contaminated which also contain PCBs as CST. The Agency still requires generators to treat these soils to meet LDR standards for all hazardous constituents except PCBs. Generators are also required to treat PCBs if the total concentration of halogenated organic compounds in the soil equals or exceeds 1000 parts per million.

Relevant Sections Affected: 40 CFR 268.32 (*new*); 40 CFR 268, Appendix III (*amended*); 40 CFR 268.49(d) (*amended*)

66 FR 24270 May 14, 2001

NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule; Implementation of Court Order

Summary: In *Chemical Manufacturers Association v. EPA*, 217 F. 3d 861 (D.C. Cir. 2000), the court vacated the notice of Intent to Comply (NIC) provisions of EPA's rules relating to the standards for hazardous waste combustors. Today's action takes the ministerial step of removing these provisions from the Code of Federal Regulations (CFR). Since the vacated NIC provision is also referenced in the permit modification procedures of RCRA in Part 270, today's action modifies this reference as well. In addition, at EPA's request, the D.C. Circuit vacated certain parameter limits of baghouses and electrostatic precipitators in order for EPA to solicit further comment on these provisions. *CKRC v. EPA*, no. 99-1457 (Order of April 5, 2001). Today's action likewise takes the ministerial step of removing these provisions from the CFR.

Relevant Sections Affected: 40 CFR 270.42(j)(1) (*amended*)

66 FR 27218 May 16, 2001

Storage, Treatment, Transportation, and Disposal of Mixed Waste; Final Rule

Summary: The Environmental Protection Agency (EPA) is today finalizing its proposal to provide increased flexibility to facilities that manage low-level mixed waste (LLMW) and technologically enhanced naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. The final rule reduces dual regulation of LLMW, which is subject to the Resource Conservation and Recovery Act (RCRA) and to the Atomic Energy Act (AEA). This final rule conditionally exempts from RCRA hazardous waste management low-level mixed wastes during storage and treatment. The storage and treatment exemption in today's rule requires the use of tanks or containers to store or treat the waste and applies only to low-level mixed waste that meets the specified conditions and is generated under a single Nuclear Regulatory Commission (NRC) or NRC Agreement State license.

Today's rule also exempts LLMW and hazardous NARM waste from RCRA manifest, transportation, and disposal requirements when specified conditions are met. Under this conditional exemption, the waste remains subject to manifest, transport, and disposal requirements under the NRC (or NRC Agreement State) regulations for low-level radioactive waste (LLW) or eligible NARM.

Relevant Sections Affected: 40 CFR 266, Subpart N (*new*)

66 FR 27266 May 16, 2001

Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules; Final Rule

Summary: Today's action finalizes the retention of the mixture rule and the derived-from rule in the Resource Conservation and Recovery Act (RCRA), with two revisions. The mixture and derived-from rules ensure that hazardous wastes that are mixed with other wastes or that result from the treatment, storage or disposal of hazardous wastes do not escape regulation and thereby cause harm to human health and the environment.

EPA is finalizing two revisions to the mixture and derived-from rules. These revisions would narrow the scope of the mixture and derived-from rules, tailoring the rules to more specifically match the risks posed by particular wastes. The first revision is an expanded exclusion for mixtures and/or derivatives of wastes listed solely for the ignitability, corrosivity, and/or reactivity characteristics. The second revision is a new conditional exemption from the mixture and derived-from rules for "mixed wastes" (that is, wastes that are both hazardous and radioactive).

Relevant Sections Affected: 40 CFR 261.3(a)(2)(iii) (*removed*); 40 CFR 261.3(a)(2)(iv) (*amended*); 40 CFR 261.3(c)(2)(i) (*amended*); 40 CFR 261.3(g) (*new*); 40 CFR 261.3(h) (*new*); 40 CFR 268, Appendix VII (*amended*)
